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June 15, 2018

*With Offices in
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VIA ECF

Hon. David E. Peebles
United States Magistrate Judge
Federal Building and U.S. Courthouse
100 South Clinton Street
P. O. Box 7345
Syracuse, NY 13261-7345

Re: Doe v. Syracuse University, et al
Civil Action No.: 5:18-CV-00496 [FJS-DEP]

Dear Magistrate Judge Peebles:

In response to defense counsel's letter to the Court yesterday, Dkt. # 16, requesting a conference, plaintiffs have no objection. To the extent defendants seek correction of the caption, plaintiffs are confident that the Court in its discretion will apply the "balancing test" referenced in *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 190 (2d Cir. 2008), in their favor.

Insofar as prejudice to the defendants in the plaintiffs proceeding anonymously, there is none. Specifically, the University has all of the information necessary to identify the John Doe plaintiffs based on: 1) the closed class of respondents charged in the underlying disciplinary matter; and 2) the residency information alluded to in the Complaint and proposed Amended Complaint. Secondly, we have already offered to provide the specific identities of each John Doe plaintiff under seal pursuant to a Stipulation and Protective Order which defendants rejected.

Finally, with respect to the public's interest in knowing the identities of the John Doe plaintiffs, the Second Circuit noted in *Sealed Plaintiff*, that the "ultimate test for permitting a plaintiff to proceed anonymously is whether the plaintiff has a substantial privacy right which outweighs the customary and constitutionally-embedded presumption of openness in judicial proceedings." *Sealed Plaintiff*, 537 F.3d at 189 (quoting *Roe v. Aware Woman Ctr. for Choice, Inc.*, 253 F.3d 678, 685 (11th Cir. 2001)). Here, nine and arguably all ten balancing factors outlined in *Sealed Plaintiff* warrant continued anonymity for plaintiffs as set forth in the Memorandum of Law submitted in support of their previous motion for a TRO and preliminary injunction. Dkt. # 5.

Smith Sovik Kendrick & Sugnet P.C.

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We look forward to discussing and litigating this issue with opposing counsel and the Court.

Respectfully,

A handwritten signature in black ink, appearing to read "Karen G. Felter", written in a cursive style.

Karen G. Felter

cc: All Counsel of Record via ECF